



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
AADINATH PETROLEUM, LLC
FOR
MIDLOTHIAN STATION Facility ID No. 4003745
&
DINWIDDIE SHELL Facility ID No. 4015678**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and Aadinath Petroleum, LLC for the purpose of resolving certain violations of the State Water Control Law and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Aadinath" means Aadinath Petroleum, LLC, a limited liability company authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Aadinath is a "person" who owns and operates the Facilities.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Cathodic protection" is a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be

cathodically protected through the application of either galvanic anodes or impressed current.

4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. "Facilities" means the following physical locations where the UST and/or UST system is installed and/or operated:
 - a. "Midlothian Station" means the physical location where the UST and/or UST system is installed and/or operated, known as Midlothian Station located at 8001 Midlothian Turnpike, Chesterfield County, Virginia 23235. The Facility's UST and/or UST system are owned and operated by Aadinath Petroleum, LLC and the Facility is further identified by UST Facility ID# 4003745.
 - b. "Dinwiddie Shell" means the physical location where the UST and/or UST system is installed and/or operated, known as Dinwiddie Shell located at 23822 Airport Street, Petersburg, Virginia 23803. The Facility's UST and/or UST system are owned and operated by Aadinath Petroleum, LLC and the Facility is further identified by UST Facility ID# 4015678.
7. "Financial Responsibility" means the ability to demonstrate that one has the financial resources available to pay for the costs of containment and cleanup and third party lawsuits in the event of a release from an UST or UST system.
8. "Form 7530-2" means the Notification for Underground Storage Tanks form used by DEQ to register and track USTs for proper operation, closure and ownership, in accordance with 9 VAC 25-580-70.
9. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
10. "Operator" means any person in control of, or having responsibility for, the daily operation of the UST system as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
11. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
12. "Owner" means any person who owns an UST system used for storage, use, or dispensing of regulated substances as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.

13. "Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, association, any state or agency thereof, municipality, county, town, commission, political subdivision of a state, any interstate body, consortium, joint venture, commercial entity, the government of the United States or any unit or agency thereof.
14. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
15. "Regulated Substance" means an element, compound, mixture, solution or substance that, when released into the environment, may present substantial danger to the public health or welfare, or the environment, as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
16. "Regulations" means the Underground Storage Tanks: Technical Standards and Corrective Action Requirements, 9 VAC 25-580-10 *et seq.*
17. "Release detection" means determining whether a release of a regulated substance has occurred from the UST system into the environment or into the interstitial space between the UST system and its secondary barrier or secondary containment around it.
18. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code. Article 9 (Va. Code §§ 62.1-44.34:8 through 62.1-44.34:9) of the State Water Control Law addresses Storage Tanks.
19. "Underground Storage Tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10% or more beneath the surface of the ground as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
20. "Va. Code" means the Code of Virginia (1950), as amended.
21. "VAC" means the Virginia Administrative Code.
22. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

SECTION C: Findings of Fact and Conclusions of Law

1. Aadinath is the owner and operator of the Facility. Aadinath stores a regulated substance in the form of gasoline and diesel in USTs at the Facilities.
2. At all times relevant to this Order, there were four USTs at Midlothian Station: three 10,000 gallon gasoline USTs (respectively "Tank 1," "Tank 2," and "Tank 3") and one 10,000 gallon diesel UST ("Tank 4").

3. At all times relevant to this Order, there were three USTs at Dinwiddie Shell: two 10,000 gallon gasoline USTs and one 10,000 gallon diesel UST.

Violations Common to the Midlothian Station and Dinwiddie Shell Facilities

4. On September 22, 2016, Department staff from the Office of Financial Responsibility and Waste Programs (“OFRWP”) conducted a file review to evaluate Aadinath’s compliance with the requirements of the State Water Control Law and Regulations. DEQ staff observed the following:
 - a. Financial responsibility had not been demonstrated for Midlothian Station based on review of the current documentation on file with DEQ.
5. 9 VAC 25-590-40(A) requires that owners or operators of petroleum USTs shall demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.
6. 9 VAC 25-590-50 requires that an owner or operator demonstrate financial responsibility using either self-insurance under limited circumstances or a combination of mechanisms listed in 9 VAC 25-590-60 through -110.
7. On December 3, 2018, OFRWP staff received information that Aadinath also owned Dinwiddie Shell. As a result OFRWP staff issued a deficiency letter on December 3, 2018, and a Warning Letter WL-19-03-CO-003 March 7, 2019 for the violation listed in Paragraph 4(a) above as it pertains to Midlothian Station and Dinwiddie Shell.
8. On November 19, 2019, DEQ issued a NOV No. 19-11-CO-002 (“11/19/19 NOV”) for the violation listed in Paragraph 4(a) above.

Violations at the Midlothian Station Facility

9. On October 17, 2018, Department staff from PRO’s Petroleum Program inspected the Midlothian Station to evaluate Aadinath’s compliance with the requirements of the State Water Control Law and the Regulations. DEQ staff observed the following:
 - a. Line tightness test records were unavailable.
 - b. Automatic line leak detector test records were unavailable.
 - c. Pipe corrosion protection records were unavailable.
 - d. Tank corrosion protection records were unavailable.
 - e. Operator training certificates and records were unavailable.

- f. Tanks not registered to the current owner
10. 9 VAC 25-580-180 requires that annual testing of the automatic line leak detectors be maintained for three years and that line tightness test records be maintained until the next test is performed in accordance with 9 VAC 25-580-120.
 11. 9 VAC 25-580-90.4 requires that cathodic protection test records from the last two inspections be maintained in accordance with 9 VAC 25-580-120.
 12. 9 VAC 25-580-125 requires that operator training certificates and documentation be maintained in accordance with 9 VAC 25-580-120.
 13. 9 VAC 25-580-70.B requires that the new UST owner submit an amended UST notification form within 30 days of a change in ownership.
 14. DEQ staff sent a Request for Compliance Activity on October 22, 2018 and included a copy of the inspection report. On May 6, 2019, DEQ staff sent a Warning Letter No. TPRO 238916 for the violations listed in Paragraphs 9(a) through 9(d) and 9(f), above. The Warning Letter requested that Aadinath respond in writing by August 6, 2019 and included a copy of the inspection report. Aadinath did not respond.
 15. On November 6, 2019, the Department issued NOV No. TPRO252358 ("11/6/19 NOV") to Aadinath for violations listed in Paragraphs 9(a) through 9(d) and 9(f), above.
 16. In February of 2020, DEQ staff spoke with the owners of Aadinath, who did not dispute the observations in the NOV. As a result of the discussions between the owners of Aadinath and DEQ staff, a new inspection was scheduled.
 17. On October 20, 2020, Department staff from PRO's Petroleum Program inspected Midlothian Station to evaluate Aadinath's compliance with the requirements of the State Water Control Law and the Regulations. The inspection report was sent to Aadinath on October 30, 2020. DEQ staff observed the following:
 - a. No overfill protection device present for Tanks 1, 2, and 3.
 - b. Tank release detection not conducted for Tank 4.
 - c. Cathodic protection test not performed in the past 3 years. Rectifier was "off." No record of 60-day rectifier inspections.
 - d. Designation of Operators not provided. Class C training records not provided. Emergency response procedures not provided and not kept on site.
 - e. New owner has not submitted a notification form since the change in ownership.

18. 9 VAC 25-580-50 and 60.5 requires that UST systems be equipped with overfill prevention devices, unless certain exceptions apply, that will restrict or prevent flow and/or alert the transfer operator when the product reaches a certain level in the UST.
19. 9 VAC 25-580-130 requires that owners and operators of UST systems provide a method, or combination of methods, of release detection that can detect a release from any portion of the tank and the connected underground piping that routinely contains product.
20. 9 VAC 25-580-140 requires that tank release detection be conducted using one of the methods listed in 9 VAC 25-580-160.
21. 9 VAC 25-580-90(1) requires that all corrosion protection systems be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground. In addition, 9 VAC 25-580-90.2 requires that all UST systems equipped with cathodic protection systems be inspected for proper operation by a qualified cathodic protection tester within six months of installation and at least every three years thereafter in accordance with a code of practice developed by a nationally recognized association.
22. 9 VAC 25-580-90(3) requires that impressed current cathodic protection systems be inspected every 60 days to ensure that the equipment is running properly and installed such that they cannot be inadvertently shut off.
23. 9 VAC 25-580-125 requires that operator training certificates and documentation be maintained and readily available for review, and a list of designated operators and emergency response procedures be kept onsite and immediately available for review in accordance with 9 VAC 25-580-120.
24. 9 VAC 25-580-70 requires UST owners to submit an amended notification form within 30 days after any change in ownership, tank status, tank/piping systems, or substance stored.
25. Aadinath and DEQ staff have met and conducted phone conferences on numerous occasions regarding the 11/19/19 NOV, 11/6/19 NOV, and the inspection on October 20, 2020. Aadinath has not disputed the observations described therein.
26. Based on the results of the file review on September 22, 2016, the inspections on October 17, 2018 and October 20, 2020, and the numerous phone conferences and meetings with Aadinath, the Board concludes that Aadinath has violated 9 VAC 25-580-50(3), 9 VAC 25-580-60, 9 VAC 25-580-130, 9 VAC 25-580-140, 9 VAC 25-580-160, 9 VAC 25-580-180, 9 VAC 25-580-120, 9 VAC 25-580-90, 9 VAC 25-580-70, 9 VAC 580-125, 9 VAC 25-590-40(A), 9 VAC 25-590-50, as described in Paragraphs C(4)(a); Paragraphs C(9)(a) through (d) and (f); Paragraphs C(17)(a) through (e) above.

27. Aadinath has submitted documentation that verifies that the violations described in Paragraphs C(9)(a)-(f) and (17)(b)-(e) have been corrected.
28. In order for Aadinath to complete its return to compliance, DEQ staff and representatives of Aadinath have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders Aadinath, and Aadinath agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$22,628.43 as described in Appendix A of this Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Aadinath shall include its Federal Employer Identification Number (FEIN) with each civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Petroleum Storage Tank Fund (VPSTF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Aadinath shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Aadinath for good cause shown by Aadinath, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order, NOV No. 19-11-CO-002, NOV No. TPRO252358, and the inspection of October 20, 2020. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, Aadinath admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Aadinath consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Aadinath declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Aadinath to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Aadinath shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Aadinath shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Aadinath shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will

result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Aadinath. Nevertheless, Aadinath agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Aadinath has completed all of the requirements of the Order;
 - b. Aadinath petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Aadinath.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Aadinath from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Aadinath and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Aadinath certifies that he or she is a responsible official or officer authorized to enter into the terms and conditions of this Order and to execute and legally bind Aadinath to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Aadinath.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Aadinath voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2021.

James J. Golden, Regional Director
Department of Environmental Quality

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Consent Order

Aadinath Petroleum, LLC; Facility ID Nos. 4003745 & 4015678

Page 11 of 13

Aadinath Petroleum, LLC voluntarily agrees to the issuance of this Order.

Date: 11/16/21 By: Bharik Shah, Managing Member
(Person) (Title)
Aadinath Petroleum, LLC

Commonwealth of Virginia

City/County of Henrico

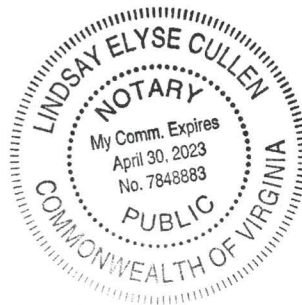
The foregoing document was signed and acknowledged before me this 16th day of
November, 2021, by Bharik Shah who is
Managing member of Aadinath Petroleum, LLC, on behalf of the company.

Lindsay Cullen
Notary Public

7848883
Registration No.

My commission expires: April 30, 2023

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. Corrective Action

- a. By January 1, 2022, Aadinath shall verify that Tanks 1, 2, and 3 at Midlothian Station have been equipped with overfill prevention devices that meet the requirements of 9 VAC 25-580-50 and -60.
- b. By December 1, 2021, Aadinath shall submit to DEQ documentation that the impressed current cathodic protection system at Midlothian Station is inspected every 60 days in accordance with 9 VAC 25-580-90(3). Aadinath shall submit records of inspections conducted from January 2021 through September 1, 2021.
- c. By November 1, 2021, Aadinath shall submit to DEQ documentation of a financial assurance mechanism that meets the requirements of 9 VAC 25-590-40(A) and -50 for all facilities owned by Aadinath as of the date of this Order.

2. Payment of Civil Charge

- a. Initial Payment. Within 30 days of the effective date of this Order, submit an initial payment of \$4,525.69.
- b. Monthly Payments. On the 5th day of the month following the month in which the initial payment is made and on the 5th day of each month thereafter until paid in full make the following payments:

Month 1: \$1,005.71
Month 2: \$1,005.71
Month 3: \$1,005.71
Month 4: \$1,005.71
Month 5: \$1,005.71
Month 6: \$1,005.71
Month 7: \$1,005.71
Month 8: \$1,005.71
Month 9: \$1,005.71
Month 10: \$1,005.71
Month 11: \$1,005.71
Month 12: \$1,005.71
Month 13: \$1,005.71
Month 14: \$1,005.71
Month 15: \$1,005.71
Month 16: \$1,005.71
Month 17: \$1,005.71
Month 18: \$1,005.67

3. **DEQ Contact**

Unless otherwise specified in this Order, Aadinath shall submit all requirements of Appendix A of this Order to:

**Aree Reinhardt
Enforcement Specialist
VA DEQ – Piedmont Regional Office
4949A Cox Road, Glen Allen, VA 23060
(804) 527-5079
Aree.reinhardt@deq.virginia.gov**